

**Minutes**

DVD No. 270

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, at 7:30 P.M., on Monday, December 19, 2011. Mayor Peggy Dunn presided.

**Councilmembers present:** Debra Filla, Carrie Rezac, Gary Bussing, Jim Rawlings, Julie Cain, Lou Rasmussen, James Azeltine, and Andrew Osman

**Mayor/Councilmembers absent:** None

<b>Staff present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
Chief John Meier, Police Department	Chris Claxton, P&R Director
Chief Ben Florance, Fire Department	Lovina Freeman, HR Director
Mark Andrasik, Info. Services Director	Joe Johnson, PW Director
Richard Coleman, Comm. Dev. Director	Deb Harper, City Clerk
Mark Klein, Planning Official	Pam Gregory, Assistant City Clerk
Dawn Long, Finance Director	

**1. PLEDGE OF ALLEGIANCE**

**2. APPROVAL OF AGENDA**

A motion to approve the agenda was made by Councilmember Rawlings; seconded by Councilmember Rezac. The motion carried following a unanimous vote of 8-0.

**3. CITIZEN COMMENTS**

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.**

**4. PROCLAMATIONS – None**

**5. PRESENTATIONS/RECOGNITIONS - None**

**6. SPECIAL BUSINESS**

**A. PUBLIC HEARING**

Consider amendments to the 2011 Fiscal Budget for the City of Leawood

Seeing no one present to speak, a motion to close the public hearing was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- B. **Resolution No. 3727** amending the 2011 Fiscal Year Annual Budget for the City of Leawood, Kansas

A motion to approve the resolution was made by Councilmember Filla; seconded by Councilmember Rawlings. The motion carried following a unanimous vote of 8-0.

City Clerk Deb Harper distributed a certificate to the Governing Body from Johnson County requiring signatures showing passage of the amended budget.

## 7. **CONSENT AGENDA**

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted on in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 2011-48
- B. Accept minutes of the December 5, 2011 Governing Body Work Session
- C. Accept minutes of the December 5, 2011 Governing Body meeting
- D. Accept minutes of the November 8, 2011 Parks and Recreation Advisory Board meeting
- E. Accept minutes of the September 15, 2011 Leawood Foundation meeting
- F. Approve Cereal Malt Beverage [CMB] license to Walgreen Co., located at 4701 Town Center Drive
- G. Approve quote in the amount of \$245,595.00, from Traveler's Insurance Company, for 2012 property/casualty insurance with brokerage services from Monte Giddings of CBIZ
- H. Approve purchase in the amount of \$34,488.00 between the City and Mid American Signal, pertaining to the purchase of Autoscope cameras and Wavetronix radar, pertaining to the 135<sup>th</sup> & Pawnee Intersection Project
- I. **Resolution No. 3728** approving and authorizing the Mayor to execute a Professional Service Agreement in the amount of \$137,367.01 between the City and Black & McDonald pertaining to Street Light and Traffic Maintenance
- J. **Resolution No. 3729** approving and authorizing the Mayor to execute a Second Amendment to that certain Lease Renewal Agreement dated November 4, 2002, between the City and T-Mobile Central, LLC, successor in interest to VoiceStream of Kansas City, Inc., [f/k/a APT] to lease certain city property for the continued use of a wireless communication antennae on an existing City-owned cellular tower, located at Leawood Police Department, 9617 Lee Boulevard
- K. **Resolution No. 3730** approving a Final Sign Plan for Park Place – Revised Office Tenant Sign Criteria, located at the northeast corner of 117<sup>th</sup> Street and Nall Avenue. (PC Case # 130-11) [*from the November 22, 2011 Planning Commission meeting*]

- L. **Resolution NO. 3731** approving a Final Sign Plan for Park Place – Generali USA (Financial Offices), located at 11625 Rosewood. (PC Case # 106-11) *[from the November 22, 2011 Planning Commission meeting]*
- M. **Resolution No. 3732** approving a Final Sign Plan for Park Place – Muller Bressler Brown (Advertising Offices), located at the northeast corner of 117<sup>th</sup> Street and Nall Avenue. (PC Case # 123-11) *[from the November 22, 2011 Planning Commission meeting]*
- N. **Resolution No. 3733** approving a Final Sign Plan for One Nineteen – Revised Sign Criteria, located at the southeast corner of 119<sup>th</sup> Street and Roe Avenue. (PC Case # 136-11) *[from the November 22, 2011 Planning Commission meeting]*
- O. **Resolution No. 3734** approving a Final Plan for a tenant finish for One Nineteen – Hot Momma (Women’s Apparel), located at the southeast corner of 119<sup>th</sup> Street and Roe Avenue. (PC Case #122-11) *[from the November 22, 2011 Planning Commission meeting]*
- P. **Resolution No. 3735** approving a Revised Final Plan for Leawood Elementary School, located at 2410 W. 123<sup>rd</sup> Street. (PC Case 125-11) *[from the November 22, 2011 Planning Commission meeting]*
- Q. Fire Department Monthly Report
- R. Police Department Monthly Report
- S. Municipal Court Monthly Report

Councilmember Osman requested to pull Item No. 7H, Councilmember Bussing pulled Item No. 7P and Councilmember Rezac pulled Item No. 7D for discussion.

A motion to approve the remainder of the Consent Agenda was made by Councilmember Rasmussen; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- 7D. Accept minutes of the November 8, 2011 Parks and Recreation Advisory Board meeting

Councilmember Rezac referred to the land transfer for the dog park and wanted clarification on what staff meant by “start” once the land is received. City Administrator Scott Lambers responded this meant to schedule a work session to discuss how they intend to utilize the property. They will then need to take formal action to accept it.

A motion to accept Item No. 7D was made by Councilmember Rezac; seconded by Councilmember Cain. The motion carried following a unanimous vote of 8-0.

- 7H. Approve purchase in the amount of \$34,488.00 between the City and Mid American Signal, pertaining to the purchase of Autoscope cameras and Wavetronix radar, pertaining to the 135<sup>th</sup> & Pawnee Intersection Project

Public Works Director Joe Johnson confirmed Mid American Signal is the sole provider for this material in the area and that the City has done business with them for the past 15 years.

A motion to approve Item No. 7H was made by Councilmember Osman; seconded by Councilmember Filla. The motion carried following a unanimous vote of 8-0.

- 7P. **Resolution No. 3735** approving a Revised Final Plan for Leawood Elementary School, located at 2410 W. 123<sup>rd</sup> Street. (PC Case 125-11) [*from the November 22, 2011 Planning Commission meeting*]

Mr. Lambers confirmed the screening for the rooftop equipment has been submitted and is acceptable to staff.

A motion to approve Item No. 7P was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

## 8. **MAYOR'S REPORT**

- A. Nearly the entire City Council was in attendance for the 2011 Holiday Social that was hosted by the Johnson & Wyandotte Counties Council of Mayors. Mayor Dunn thanked the Councilmembers for their participation.
- B. There was excellent City Councilmember attendance at the Employee Appreciation Luncheon that was hosted by City Administrator Scott Lambers and Department Heads. Thanks to Human Resources Director Lovina Freeman for organizing this event. Congratulations to Becky Craig, Administrative Assistant to Fire Chief Ben Florance, for being recognized as the 2011 "Employee of the Year." There were 57 employees who were honored for their service, which represents 750 years of public service. The Employee Appreciation Luncheon also served as the finale of the "Have-A-Heart" Campaign the employees participate in each year. Employees either donated dollars or bought gifts for a total of 303 hearts from an "Angel Tree" for two non-profit agencies: Kids TLC and the Evergreen Community of Johnson County. Budget Coordinator Kathy Byard served as the lead organizer in this City-wide effort. The program was very successful, demonstrating once again the generosity of Leawood employees. Mayor Dunn thanked everyone for their participation.
- C. Attended a Leawood Chamber of Commerce ribbon cutting ceremony for Kosama Fitness Center, located in Parkway Plaza at 135<sup>th</sup> and Roe. Mayor Dunn wished them much success.
- D. Attended a Leawood Chamber of Commerce ribbon cutting ceremony with Councilmembers Carrie Rezac and Jim Rawlings for Mestizo Restaurant, hosted by Aarón Sánchez, located in Park Place. Mayor Dunn wished them much success.
- E. Mayor Dunn had the opportunity to address a group of female international visitors from South Africa, Europe and the Middle East at the invitation of the American Business Women's Association. There are 40 delegates touring the nation with four of them here in our area. They are serving specifically in public service roles within their countries and were very interested in learning about Leawood and our form of government.

- F. Nearly all City Councilmembers and Department Heads were in attendance at the Leawood Chamber of Commerce Annual Meeting. Congratulations to Hall of Fame recipients Fire Chief Ben Florance and Police Detective Retiree Joe Langer. Accepting the "Business Award" for Park Place of Leawood were Jeff Alpert and Melanie Mann.
- G. Attended two retirement celebrations within the Leawood Fire Department. One was for Training Chief Tim Stamm, in recognition of 33 years of dedicated fire service, seven of which were here in Leawood and the other for Master Firefighter Chris Archer, in recognition of 27 years of dedicated service with the Leawood Fire Department.
- H. Mayor Dunn wished everyone a Happy Holiday and a wonderful New Year!

## 9. COUNCILMEMBERS' REPORT

- A. Councilmember Filla- 4<sup>th</sup> Annual Home Owners Association Meeting, Thursday, February 2, 2012

Councilmember Filla asked the Council to mark their calendars for the upcoming Home Owners Association dinner and meeting. They plan to host the awards for the Essay and Art Contest this year.

- B. Discussion from Sustainability Advisory Board meeting regarding Street Trees

A motion to refer this discussion to the Parks and Recreation Department as well as collaborating with the Planning and Public Works Departments was made by Councilmember Filla; seconded by Councilmember Cain.

Councilmember Filla stated the Leawood Development Ordinance [LDO] asks that they install 4" caliber trees; however, this restricts the diversity of trees that can be planted since very few nurseries carry more than a couple of different varieties. The Parks Arborist had indicated a smaller caliber tree does well over time versus starting out with a larger caliber. Other issues include Public Works having to trim the trees and how to ensure homes associations plant them in the right-of-ways correctly.

Mayor Dunn supported their efforts; however, commented deciding to go with the 4" caliber trees took a lot of time working through the LDO. She cautioned the Parks and Recreation Advisory Board that they don't want to see small twig-type trees in commercial developments.

The motion carried following a unanimous vote of 8-0.

- C. Discussion from Sustainability Advisory Board meeting regarding Deffenbaugh landfill

A motion to request the Mayor to send a letter with the support of the City Council to the Johnson County Commission encouraging them to continue their policy of restricting yard waste from going into the Johnson County Landfill was made by Councilmember Filla; seconded by Councilmember Cain.

Councilmember Filla reported that an article in the Kansas City Star stated they had made an exception for 18 months for two existing contracts, but they would continue to limit that and hold to the new hauler requirements to provide unlimited recycling, pay-as-you-throw, and to restrict all yard waste from the landfill. Yard waste represents 11% of the space in a landfill and can easily be composted. It costs \$1 Million per acre and takes over 10 years to get a permit to build a new landfill.

Mr. Lambers stated Deffenbaugh Industries has not given any indication as to whether they plan to honor the County's policy of no yard waste going into the landfill for any future contracts. They have made it clear their intention is to solicit contracts from outside the County and perhaps, outside the State to allow that yard waste be accepted. This would then go beyond the two contracts currently in existence with the unified government of Wyandotte County and Edwardsville. The landfill has provided an additional expansion, which adds 30 years of use; therefore, the sense of urgency has dissipated. The State has indicated they have concerns that the Johnson County Government is imposing conditions on other governments outside the area as an interstate commerce issue. Deffenbaugh may push this further wanting to make it an interstate commerce issue. This is a serious concern with the outcome left up to the County Commissioners and City's taking a stand on this.

Councilmember Cain commented the City of Leawood spends several thousand dollars composting its own yard waste picked up by the street sweepers in order to be environmentally conscious.

Mayor Dunn noted she would copy the City Council and the Sustainability Advisory Board on the letter that is sent.

The motion carried following a unanimous vote of 8-0.

**10. STAFF REPORT – None**

***COMMITTEE RECOMMENDATIONS***

**11. PLANNING COMMISSION**

***[from the November 22, 2011 Planning Commission meeting]***

- A. **Resolution No. 3736** approving a Final Sign Plan for Church of the Nativity, located north of 119<sup>th</sup> Street and west of Mohawk Lane. (PC Case # 118-11)

Ross Jensen, Acme Sign, stated these plans propose two monument signs designed to look appealing and match the materials used in the church.

A motion to approve the resolution was made by Councilmember Bussing; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

- B. **Resolution No. 3737** approving a Final Plan and Revised Final Plat for Park Place – The Residences and 8<sup>th</sup> Plat, located south of Town Center Drive and east of Nall Avenue. (PC Case 128-11)

Jeffrey Alpert, Park Place Village, requested Final Plan approval for the Park Place Residences.

Bill Preloger, NSPJ Architects, gave a 3D presentation of the changes made in response to the Edgewood residents' comments and concerns by Councilmembers. The north elevations of both buildings have been modified to show more articulation. Many components that have been added are either at the 30' or 40' foot setback. They are proposing a landscaped sculpture garden for the round-a-bout where Rosewood intersects with the private drive. There will be a heavily landscaped space along the west side of Rosewood. There is a great deal of green space along Town Center Drive opposite the Edgewood residents. The parking garage is fronted both east and west by two-story townhomes. The top deck of the parking garage provides outdoor terraces for the first floor of the apartments. Roof terraces are proposed for the south ends of each of the two buildings and are surrounded by solid walls to limit noise into the neighborhood. Meetings with the Codes Department staff resolved issues with the parking garage by reconfiguring one of the tiers of the garage fully underground, which brings it into compliance. The exterior designs of the buildings are not affected by this change in any way.

Community Development Director Richard Coleman commented Fire Marshall Gene Hunter's concern was the type of construction proposed. They will need to comply with all codes, which will require that the building be fully sprinkled, have one-hour fire walls on the entire apartment structure, and have a fire separation between the garage and units, both vertically and horizontally. Mr. Preloger understood what was required and agreed to comply.

One of the concerns of the Edgewood residents was that the project would be too visible. There is a multi-layer screen of deciduous and evergreen trees that have reached a substantial state of maturity, which makes it difficult to see the Edgewood Villas that are north of the tree line.

Planning Official Mark Klein confirmed for Councilmember Bussing that the proposed project has less total square footage when compared with the original Meridian Project.

Councilmember Bussing referred to Planning Commission Stipulation No. 14 and confirmed with Mr. Klein that staff would determine landscape sufficiency to screen the utility boxes. Mr. Lambers clarified this stipulation is intended with the understanding should the staff require additional landscaping and the applicant believes it isn't necessary, they can repeal that to the City Council, which would make the final decision.

Councilmember Bussing asked why the Planning Commission changed the language in Stipulation No. 31 from "extent expressly modified herein" to "extent modified herein." Mr. Alpert replied their intent was to address the fact that there had been previous modifications.

Councilmember Bussing requested clarification of staff's comments on Page 11 regarding the landscape plan versus the water feature. Mr. Coleman replied the water features were part of the density bonus of the original plan and staff felt the substitution of fixed landscaping was not an equivalent amenity. The Planning Commission changed the stipulation to provide that they still upgrade the Revised Final Plan to include a water feature, statuary, or increased landscaping and they removed the section referring to having a water feature. Mr. Alpert replied when their original Preliminary Plan was approved, it showed some water along the Rosewood entrance, which was a place holder. There were a variety of other amenities added that were not on that plan, such as the ice rink and fountain in Barkley Square.

One of the reasons they decided not to have water at that entrance was because of the grade of the land. Mr. Coleman responded staff's logic was the fact that the amenity was on Town Center Drive, which would be more of a public benefit; whereas, if it is shifted to the round-a-bout it is only an amenity to the patrons of Park Place. Mr. Lambers clarified this has been an issue in the past and they have been strict that if there is an exchange of amenities it needs to be identified specifically as a part of the Planning process, especially when gaining density. There should have been a more formal process to substitute this amenity. Mr. Alpert confirmed they would return with additional amenities for this area.

Mr. Alpert clarified for Councilmember Cain that a small resistance pool may be located inside on a lower level.

Mr. Preloger confirmed for Councilmember Rezac there is 31 feet from the sidewalk to the building. The materials used on all elevations include two different kinds of brick, stucco, composite material and cut stone. There will be 8 foot high stucco walls around the rooftop terraces with hot tubs possibly located on the R2 building rooftop terrace.

A motion to approve the resolution was made by Councilmember Rawlings; seconded by Councilmember Rasmussen.

Mr. Alpert thought groundbreaking would begin within 90 days with occupancy by spring, 2013.

The motion carried following a unanimous vote of 8-0.

## **12. ARTS COUNCIL**

### **[from the November 21, 2011 Arts Council meeting]**

Accept recommendation to purchase art piece 'Introspection' from Artist Larry Young, in the amount of \$85,000

Dr. Ann Kenney, 9814 Overbrook Court, stated the Arts Council decided the sculpture garden would be an ideal location for this art piece. There may be some excavation of the lake, which could delay moving the piece. Councilmember Rasmussen noted many of the art pieces they've purchased have been modern and asked if they had plans to purchase any traditional pieces. Dr. Kenney replied this is an ongoing discussion in which they try to balance with a variety of pieces.

A motion to accept the recommendation to purchase the art piece was made by Councilmember Filla; seconded by Councilmember Azeltine. The motion carried following a unanimous vote of 8-0.

**13. OLD BUSINESS - None**

**14. OTHER BUSINESS - None**

**15. NEW BUSINESS – None**

## **ADJOURN**

There being no further business, the meeting was adjourned at 9:00 P.M.

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Debra Harper, CMC, City Clerk

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Pam Gregory  
Recording Assistant City Clerk